

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BORIS TWAIN CLEWIS,
TDCJ #694570,

Plaintiff,
VS.

BILLY D HIRSCH, *et al*,

Defendants.

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CIVIL ACTION NO. 4:13-CV-02308

ORDER

State inmate Boris Twain Clewis (TDCJ #694570) has filed this civil rights lawsuit under 42 U.S.C. Section 1983, alleging retaliation against him while in custody at the Wynne Unit. Clewis has filed a motion for leave to proceed *in forma pauperis* and has supplied a certified inmate trust fund account statement as required by 28 U.S.C. Section 1915(a)(2). The documentation reflects that Krieg has a current balance of \$1,639.23 and that he is able to pay the filing fee.

Accordingly, the Court **ORDERS** as follows:

1. Clewis's motion for leave to proceed *in forma pauperis* (Docket Entry No. 2) is **DENIED**.

2. Clewis shall pay the filing fee (\$400.00) in the form of a money order or check issued by the prison unit on his behalf from funds found in his inmate trust account, with the above-referenced case number written on it, payable to the United States District Clerk, P.O. Box 61010, Houston, Texas 77208.

3. If he fails to comply as directed, Clewis is advised that this case may be

dismissed without further notice for want of prosecution under Rule 41(b) of the Federal Rules of Civil Procedure.

4. Service of process will be withheld pending judicial screening pursuant to 28 U.S.C. § 1915A.

5. No amendments or supplements to the complaint will be filed without prior Court approval. A complete amended complaint will be attached to any motion to amend. Any pleadings or other papers filed in violation of these directives, including any pleadings or other papers which contain any new claims or any new factual allegations not already explicitly raised in: (1) the original complaint, (2) any court approved amendments or supplements to the original complaint, or (3) in response to an Order for More Definite Statement, shall be automatically **STRICKEN** from the record without further notice and will be of no force or effect in this lawsuit. Any pleadings or other papers filed in violation of these directives in this paragraph may also subject the plaintiff to other sanctions, including the dismissal of this suit for failure to comply with court orders, if appropriate.

6. All discovery in this case is stayed until the Court enters an order to answer.

7. No motions for appointment of counsel shall be considered until the Court has completed its screening pursuant to 28 U.S.C. § 1915A, which may include a hearing under *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985).

8. The plaintiff must notify the court of any change of address by filing a written notice of change of address with the Clerk. Failure to file such notice may result in this case being dismissed for want of prosecution.

NOTICE TO THE PLAINTIFF:

A. If you do not wish to pay the full filing fee, you must notify the court in writing that you do not wish to prosecute this civil action. Your notice must be received by the Court within 30 days of the date of this order.

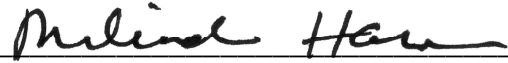
B. Payment of all or any part of the full filing fee will not prevent dismissal of the complaint if it is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. If the case is dismissed on any of those grounds before payment of the entire filing fee, the plaintiff must still pay the entire filing fee. When a prisoner has had three or more prior actions or appeals dismissed for being frivolous, malicious, or failing to state a claim upon which relief may be granted, federal law prohibits the prisoner from bringing any more actions or appeals *in forma pauperis* unless the plaintiff is in imminent danger of serious physical injury. *See* 28 U.S.C. Section 1915(g).

C. State law requires the forfeiture of good conduct time credits as a sanction for any state or federal lawsuit brought by an inmate while in the custody of the Texas Department of Criminal Justice, or confined in county jail awaiting transfer to TDCJ, that is dismissed as frivolous or malicious. *See* TEX. GOV'T CODE ANN. Section 498.0045. This sanction extends to frivolous proceedings arising from an application for writ of habeas corpus if brought for the purpose of abusing judicial resources. *See id.*

Section 498.0045(a)

The Clerk will provide a copy of this order to the plaintiff.

SIGNED at Houston, Texas, this 20th day of August, 2013.

A handwritten signature in black ink, appearing to read "Melinda Harmon", is written over a horizontal line.

MELINDA HARMON
UNITED STATES DISTRICT JUDGE